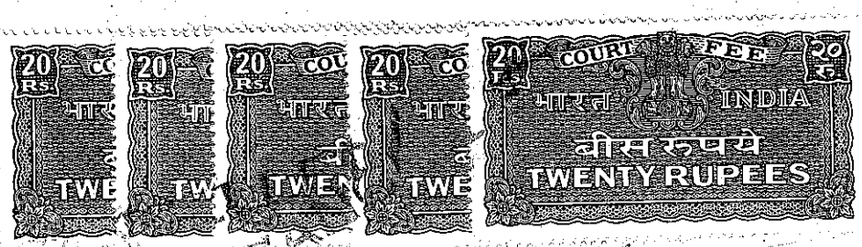

IN THE HIGH COURT OF JUDICATURE AT JABALPUR(MP)

WRIT PETITION NO.4165 OF 1999.

WRIT PETITION UNDER ARTICLES 226 & 227 OF CONSTITUTION OF INDIA.

PETITIONER : Kamal Chandra Roy,
son of Haribar Roy,
aged about 41 years,
Resident of Pali, Tahsil Katghora,
District Korba(MP).

-Versus-

RESPONDENTS :
1. State of Madhya Pradesh,
through the Chief Secretary,
Vallabh Bhawan, Bhopal (MP).
2. Commissioner(Revenue),
Bilaspur Division, Bilaspur(MP).
3. Sub Divisional Officer/
Sub Divisional Magistrate, Katghora,
District Korba(MP).

1. PARTICULARS OF THE PETITIONER:

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... W.P. 4165/99 ~~सन् 200~~

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	27-9-2005 Mr. Awadh Tripathi, counsel for the petitioner. Mr. Sandeep Dubey, Govt. Advocate for the State/respondents. Heard both the counsel. The petitioner has preferred this writ petition under Articles 226 & 227 of the Constitution of India, challenging the circular dated 14-1-1998 (Annexure P-1) issued by the Sub Divisional Magistrate, Katghora. The case of the petitioner is that the petitioner is having registration No.5729 from the Indian Council of Alternative Medicines since 6-5-1987 and practicing at Pali, District: Korba. In the year 1998, the Commissioner, Bilaspur Division, sent informations to the petitioner and various other persons practicing in Alternative Medicines to come to the Office, and there the petitioner and others were threatened that they should stop practicing and in case they continue practicing in Alternative Medicines, they will be arrested and detained in jail. Accordingly, the Sub Divisional Magistrate, Katghora, issued circular dated 14-1-1998 (Annexure P-1) to the petitioner and other persons that they are not registered in Allopathy medicines, therefore, if they practice, they will be punished under Section 24 of the M.P. Ayurvigyan Parishad Adhiniyam, 1987. It has been mentioned in the circular that Alternative Medicines are not recognized therefore, they should not	

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मामला क्रमांक ..... W.P. 4165/99 ..... ~~सन् 200~~

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

practice. The circular is imposing restriction on their business, which is violative of Article 19 (1) (g) of the Constitution of India, under which the petitioner and others are entitled to practice any profession or to carry on any occupation, trade or business as contained in Article 19 (1) (g) of the Constitution. There is no law which prohibits the Alternative Medicine, therefore, the petitioner has a right to practice and the respondents cannot restrain him.

Reply of the State/respondents is that they have sought for information from the petitioner about his profession and they have not restrained the petitioner. Clauses 7, 8 & 9 of the impugned circular does not give rise to any cause of action to the petitioner, and the judgment cited by the petitioner in M.P.No.1244/1994 is not applicable.

By the impugned circular dated 14-1-1998, the S.D.M. Katghora issued a circular that only three kinds of medical practice is recognized namely, Allopathy; Ayurved, Unani & Naturopathy; as also Homeopathy which are governed by M.P. Ayurvigyan Parishad Adhiniyam, 1987; M.P. Ayurvedic, Unani & Naturopathy Vyavasayi Adhiniyam, 1970; and M.P. State Homeopathy Council Adhiniyam, 1976, respectively. Except these, three systems of treatment no other medical treatment system is recognized by the State. Therefore, the practitioners were directed to submit documents and information in proforma "क" to the S.D.M. As per

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मामला क्रमांक ....W.P.4165/99.... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

clause 6 of the circular, the practitioners were directed to display on a board outside the clinic, name of the doctor, his qualification and medical practice, which he is adopting. If the doctor is providing any medicine then he should mention names of those medicines in the information. The doctors were directed to get printed their letter pads and on those letter pads, they should also publish their qualification, address of the clinic and the date of treatment, and they should also maintain a register in which name of the patient, name of the disease and the medicines used for the purpose of treatment should be mentioned. It should also be mentioned that how much fees is charged.

I have gone through the order rendered by the M.P. High Court in which it has been held that the petitioners were practicing alternative medicine which is not covered under the M.P. Ayurvigyan Parishad Adhiniyam, 1987; M.P. Ayurvedic, Unani & Naturopathy Vyavasayi Adhiniyam, 1970; and M.P. State Homeopathy Council Adhiniyam, 1976. There is no other law, which prohibits the practice in alternative medicine system.

In view of the above judgment and considering the whole aspects of the case, as far as furnishing the information by the petitioner as asked in the said circular is concerned, it does not in any way create fetter on the business of the petitioner. Rather the petitioner is

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मामला क्रमांक ..... W.P. 4165/99 ..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

required to give information about the method of medical practice he is adopting and the kinds of medicines he is using. He is also required to display his name, qualification and the medical system, which he is adopting on a board outside his clinic, and he should also have a printed letter pad on which his name, name of the clinic and the date of treatment are written.

Therefore, the information required under clauses 4, 6, 7, 8 & 9 of the impugned circular is not in any way offending. As per clause 6 of the impugned circular, the petitioner is required to display a board outside his clinic. Hence, to this extent, the petitioner has no cause of action. However, on the information given by the petitioner, if his practice is found to be violative under any of Acts i.e. M.P. Ayurvigyan Parishad Adhiniyam, 1987; M.P. Ayurvedic, Unani & Naturopathy Vyavasayi Adhiniyam, 1970; and M.P. State Homeopathy Council Adhiniyam, 1976, then the respondents shall be entitled to take action, in accordance with law, not otherwise. If the practice adopted by the petitioner is not violative of any of the above three Acts, then the respondents shall not be entitled to take any action against the petitioner.

With the above observations and directions, the writ petition stands disposed of.

Sd/-
L.C.BHADOO
Judge

Soma

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